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COMPLAINT FOR PERSONAL INJURIES IN TORT

I. PARTIES

COMPLAINT - 1

PHILLIPS LAW FIRM
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1 laws of the United States of America with its principal place of business in Washington, D.C.
2 Defendant operates passenger rail services, within Snohomish County, Washington, as Amtrak.
3 Defendant is a common carrier.

4 1.3 The Defendant's registered agent for service is CT Corporation. The agent's
5 address is: 1015 15th Street NW, Suite 1000, Washington, DC 20005

6 **II. JURISDICTION, VENUE, AND PROCEDURAL REQUIREMENTS**

7 2.1 Personal jurisdiction exists over Defendant National Railroad Passenger
8 Corporation because the "tortuous act" and omissions giving rise to and causing the plaintiff's
9 injury claims occurred in Snohomish County, Washington.

10 2.2 Venue is proper in Snohomish, Washington, because Defendant National Railroad
11 Passenger Corporation operates within Snohomish County, Washington.

12 2.3 There is no unnamed entity that caused or contributed to Plaintiff's injuries.

13 2.4 This action was commenced within the time permitted by the applicable statute of
14 limitations.

15 2.5 Defendant acknowledges that it has been properly served with the Summons and
16 Complaint in this matter.

17 **III. FACTS**

18 3.1 Date: The incident occurred on or about November 28, 2016.

19 3.2 Location: The incident occurred at Edmonds Station at 211 Railroad Avenue,
20 Edmonds, WA 98020 in Snohomish County, Washington.

21 3.3 Details: On or about November 28, 2016, Plaintiff Sherry Merryman was
22 attempting to disembark from a National Railroad Passenger Corporation Train. Agents of
23 Defendant were aware that Plaintiff was disabled. Plaintiff had a "walker" with her that she used
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1 for assistance. Defendant personnel failed to provide any assistance to Plaintiff as she
 2 disembarked. Plaintiff was advised to use a foot stool to step off the train, without assistance
 3 provided. Plaintiff fell as she got off the train and sustained serious injuries.

4 3.5 Injuries: Plaintiff suffered personal injuries, including but not limited to a broken
 5 leg, requiring extensive care.

6 IV. NEGLIGENCE

7 4.1 Duties of National Railroad Passenger Corporation: Defendant is a common
 8 carrier. The Defendant National Railroad Passenger Corporation, by and through its agents,
 9 servants and/or employees, owed Plaintiff a duty to exercise the highest degree of care consistent
 10 with the practical operation of its type of transportation and its business as a common carrier.
 11 Further, the Defendant, its agents, servants and/or employees had a duty to:

- 12 (a) Defendant was aware that Plaintiff was disabled, and that the
 13 hazards of travel were increased for her. Defendant had the duty to
 14 provide that amount of additional care which is reasonably
 15 required under the circumstances consistent with the practical
 16 operation of its type of transportation and its business as a common
 17 carrier.
- 18 (b) Provide safe and adequate transportation of passengers, including
 19 but not limited to assistance with embarking and disembarking;
- 20 (c) Provide passengers with assistance in embarking and disembarking
 21 when required due National Railroad Passenger Corporation's own
 22 requirements and/or rules.

23 4.2 Breach. Defendant breached its duties as set forth in paragraphs 3.1 through 4.1.

24 4.3 Proximate Cause. As a direct and proximate cause of Defendant's breach of its
 25 duties as set forth in paragraphs 3.1 through 4.2, Plaintiff has suffered personal injuries.

1 4.4 Vicarious Liability: Agent of defendant, John Doe, the conductor of the train on
2 the date of this incident, was a duly authorized agent, servant, and employee of National Railroad
3 Passenger Corporation, and was acting within his scope of employment at the time of the
4 incident.

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6 **V. NO COMPARATIVE FAULT**

7 5.1 Plaintiff was without negligence of any kind or nature whatsoever and did not
8 contribute to her own injuries or damages in any way.

9 **VI. DAMAGES**

10 6.1 As a direct and proximate result of the negligence alleged herein, Plaintiff has
11 suffered severe physical injuries and is entitled to fair and reasonable compensation.

12 6.2 As a direct and proximate result of the negligence alleged herein, Plaintiff has
13 incurred medical expenses and other out-of-pocket expenses and is entitled to fair and reasonable
14 compensation.

15 6.3 As a direct and proximate result of the negligence alleged herein, Plaintiff has
16 suffered and will continue to suffer severe physical pain and suffering and is entitled to fair and
17 reasonable compensation.

18 6.4 As a direct and proximate result of the negligence alleged herein, Plaintiff has
19 suffered mental and emotional distress, loss of enjoyment of life, past and future disability, and
20 permanency of injury. Plaintiff is entitled to fair and reasonable compensation.

21 6.5 As a direct and proximate result of the negligence alleged herein, Plaintiff has
22 sustained past wage loss and loss of future earning capacity.
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1 6.6 As a direct and proximate result of the negligence alleged herein, Plaintiff is
2 entitled to prejudgment interest on all medical and other out-of-pocket expenses directly and
3 proximately caused by the negligence alleged in this Complaint.

4 **VII. PRAYER FOR RELIEF**

5 WHEREFORE Plaintiff prays for the following relief:

6 7.1 Special Damages for Plaintiff in such amounts as are proven at trial.

7 7.2 General Damages for Plaintiff in such amounts as are proven at trial.


8 7.3 Costs including reasonable attorney's fees for Plaintiff as are proven at trial.

9 7.4 Prejudgment Interest on all liquidated damages.

10 7.5 For such other and further relief as the court deems just, equitable and proper for
11 Plaintiff at the time of trial.

12 4
13 DATED THIS day of May 2017.

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15 PHILLIPS LAW FIRM

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17 Derek P. Radtké, WSBA #27277
18 Attorney for Plaintiff